



DELTA STEWARDSHIP COUNCIL
A California State Agency

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August 29, 2014

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Mr. John Powderly
West Sacramento Area Flood Control Agency
1110 West Capitol Avenue
West Sacramento, CA 95691

RE: West Sacramento Project Draft Environmental Impact Statement /Environmental Impact Report

Dear Mr. Powderly:

Thank you for the opportunity to comment on the West Sacramento Project Draft Environmental Impact Statement /Environmental Impact Report (EIS/EIR). Council staff appreciates the West Sacramento Project's goal of reducing flood risk for the city by proposing additional structural modifications to existing West Sacramento levees to address seepage, slope stability, erosion, and height concerns. This letter provides comments on the Draft EIS/EIR and the environmental information that is relevant to our agency's responsibility in connection with the proposed project.

State law directs the Delta Stewardship Council (Council) to provide "advice to local and planning agencies regarding the consistency of local and regional planning documents with the Delta Plan" (Water Code Section 85212). The Council adopted the Delta Plan on May 16, 2013, and the Plan's regulatory policies became effective on September 1, 2013. The Delta Plan, including its policies and recommendations, should be acknowledged in the final EIS/EIR's description of the project's environmental setting.

In addition, we recommend that the following matters be discussed or included in the final West Sacramento Project EIS/EIR:

- **Consistency with the Delta Plan.** The EIS/EIR should discuss any inconsistencies between the project and the Delta Plan, as required by 15125(d) of the California Environmental Quality Act (CEQA) Guidelines. Note, too, that the CEQA Guidelines' Appendix G states that a project that is inconsistent with any applicable land use plan, policy, or regulation may result in a finding of significant impact on biological resources.
- **Delta Stewardship Council and Delta Plan.** In the Draft EIS/EIR, Subsection 6.4.2, we suggest replacing the "California Bay-Delta Authority" with the "Delta Stewardship Council."

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

It is important to note that the Delta Stewardship Council is the successor to the California Bay-Delta Authority and CALFED Bay-Delta Program. The Council oversees Delta activities by consulting with state, federal, and local agencies and ensuring that their projects and activities in the Delta are in compliance with the Delta Plan. The Plan can be found on the Council's web site at <http://deltacouncil.ca.gov/>."

- **Land Use and Agricultural Resources.** The draft EIS/EIR identifies the potential land use and agricultural resource impacts and provides possible mitigation measures. In Section 3.3 Land Use and Agriculture, pages 68 - 69, it also recognizes various federal, state, and local regulations and plans. We commend your efforts on coordination and compliance with different federal, state, and local entities and their regulations. For this reason, the narrative at page 68 - 69 should be revised to include the Council and the Delta Plan. The Council is an independent State agency charged with furthering the achievement of the State's coequal goals and has specific jurisdiction over and regulations related to land use in the secondary zone of the Delta (23 California Code of Regulation [CCR] Section 5010).

In addition, the possible alternatives listed in Section 3.3.3 through Section 3.3.6 should be verified for consistency with **Delta Plan Policy DP P2** (23 CCR Section 5011), which calls for siting flood management infrastructure to avoid or reduce conflicts with local land uses when feasible.

- **Biological Resources.** This draft EIS/EIR provides biological resource impact assessments and identifies "Alternative 5 - Improve Levees and Sacramento River South Setback Levee" as the Net Economic Development (NED) Plan as well as the preferred plan. In the final EIS/EIR, please verify that the project and the possible outcomes will be consistent with policies identified in the Delta Plan. Such policies include **Delta Plan Policy ER P2** (23 CCR Section 5006), which calls for restoring habitats at appropriate elevations; and **Policy ER P4** (23 CCR Section 5008), which states that levee projects must evaluate and, where feasible, incorporate alternatives, including the use of setback levees, to increase floodplains and riparian habitats.
- **Delta Plan Certification of Consistency.** The Delta Reform Act specifically established a certification process for compliance with the Delta Plan's regulatory policies (<http://deltacouncil.ca.gov/covered-actions>). According to the Delta Reform Act, it is the state or local agency approving, funding, or carrying out the project that must certify consistency with the Delta Plan. This certification is subject to appeal to the Council. A way to streamline the process and make full use of the EIS/EIR is to include the information and analysis needed to support the certification of Delta Plan consistency within the EIS/EIR, including potentially a draft certification as an appendix to the final EIS/EIR.

Please also note that the final Programmatic Environmental Impact Report (PEIR) for the Delta Plan includes a Mitigation Monitoring and Reporting Plan that describes the mitigation required for covered actions. If you should determine this project is a covered action, it will need to comply with the Delta Plan's Policy GP1 (23 CCR Section 5002(b)(2)), which states, "Covered actions not exempt from CEQA must include applicable feasible mitigation measures identified in the Delta Plan's PEIR or substitute mitigation measures that the

Mr. John Powderly
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proposing agency finds are equally or more effective.” Even if the project is not a covered action, we encourage consistency with the Delta Plan’s Policies and Recommendations, including Recommendation DP R16, which encourages recreation, such as levee-top trails or bank fishing on public lands. We commend you on proposing to provide West Sacramento residents with recreation opportunities that are compatible with implementation of this project’s flood risk reduction measures.

If you have any questions or would like additional information, please feel free to contact me or my staff, You Chen (Tim) Chao at YouChen.Chao@deltacouncil.ca.gov or (916) 445-0143 with your questions, comments, or concerns. We would like to work with you to ensure the consistency of the West Sacramento Project with the Delta Plan while also avoiding, minimizing or mitigating potential environmental impacts and we look forward to continued coordination between our agencies to further our related efforts. We are available to continue discussions about how to ensure that your project is consistent with the Delta Plan.

Sincerely,

 FOR
CINDY MESSER

Cindy Messer
Deputy Executive Officer
Delta Stewardship Council

CC: Ms. Anne Baker U.S. Army Corps of Engineers Sacramento District